IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.1637 OF 2005

Union of India ... Petitioner
V/s.
Om Prakash Namdeo ... Respondent

Mr.Suresh Kumar for the petitioner.
Mr.G.S.Walia for the respondent.

ALONG WITH
WRIT PETITION NO.2875 OF 2005

Om Prakash Namdeo alias
O.P. Namdeo .. Petitioner
vs.
Union of India & ors. .. Respondents

Mr.G.S.Walia with Mr.R.G.Walia for the petitioner.

Mr.Suresh Kumar for the respondents.

CORAM : F.I. REBELLO &
ANOOP V. MOHTA,JJ.
DATED 5th September, 2006

P.C.

Rule. Heard forthwith.

2. For the order to be passed, it is not necessary to set out facts in detail. During the course of the hearing, it has come to our attention that the main issue as to who is appointing authority has not been decided. The learned counsel for the respondents rightly point out that the petitioner had not raised this issue and as such the Tribunal cannot be faulted on that count.

3. After considering the various provisions to impose a major penalty by way of dismissal can only be by the appointing authority or an equivalent authority or higher authority. This finding will have to be recorded for the purposes of answering the issue as to whether the punishment was rightly imposed on the respondents by a competent Authority.

4. Considering the above, we set aside the impugned orders and remand the matter back to the Tribunal for reconsideration and decide the issue bearing in mind the law including various amendments done to the rules from time to time. Considering that the matter is pending for some time, the Tribunal to dispose of the Original Applications within three months from the date of the communication of this order to them. It will be open to the parties to place the necessary rules/notifications as to who is appointment authority.

5. With the above observation, both petitions stand disposed of. Rule is made absolute in the above terms. No costs.

[F.I. REBELLO, J.]

[ANOOP V. MOHTA, J.]